

### **REMARKS**

Claims 1-82 are pending. Claims 1-30, 42-46, 50, and 53-82 are withdrawn. Claims 31-41, 47-49, 51 and 52 are rejected.

#### **Information Disclosure Statement**

Applicants submitted two Information Disclosure Statements (IDSs) on October 6, 2004 and September 7, 2005, respectively. The Examiner signed off and returned the IDS filed on October 6, 2004 but has not returned to Applicants the signed off IDS filed on September 7, 2005. Applicants respectfully request the Examiner sign off the IDS filed on September 7, 2005 and return it to Applicants.

#### **Rejections under 35 U.S.C. §112**

Claims 39-41 are rejected as being indefinite under 35 U.S.C. §112, 2<sup>nd</sup> paragraph. Applicants believe these rejections are moot in light of the amendment to claims.

#### **Rejections under 35 U.S.C. §103**

Claims 31-41, 47-49, 51 and 52 are rejected as being obvious over U.S. Patent No. 6,110,483 to Whitbourne et al. ("Whitbourne") in view of WO 2004/101018 ("WO101018").

Claim 31 defines a medical article comprising an implantable medical device and a coating deposited on at least a part of the device. The coating includes (a) a structural component comprising a linear acrylic homopolymer or linear acrylic copolymer; and (b) a biobeneficial component **comprising a copolymer having an acrylate moiety and a biobeneficial moiety.**

Whitbourne describes a coating formed of poly(butyl methacrylate) (PBMA). As the Examiner correctly notes, Whitbourne fails to describe or teach a coating that includes a biobeneficial component **comprising a copolymer having an acrylate moiety and a biobeneficial moiety.**

WO 101018 describes a coating having a topcoat that includes PBMA and poly(ethylene glycol) (PEG), which can form an interpenetrating network. As the Examiner correctly notes, WO 101018 does not to describe or teach a coating that includes a biobeneficial component **comprising a copolymer having an acrylate moiety and a biobeneficial moiety.**

In addition, WO 101018 was filed on March 24, 2004, claiming priority to May 8, 2003. WO 101018 and the instant application were commonly owned by Advanced Cardiovascular Systems, Inc., when they were filed. WO 101018, even if it were relevant, would be a 103(a)/102(e) reference of the instant application and is disqualified as a prior art reference under 35 U.S.C. §103(c).

In sum, since WO 101018 is no longer a prior art reference and Whitbroune fails to describe or teach a coating that includes a biobeneficial component **comprising a copolymer having an acrylate moiety and a biobeneficial moiety**, claim 31 is patentably allowable over Whitbourne under 35 U.S.C. §103(a). Claims 32-41, 47-49, 51 and 52 depend from claim 31 and are patentably allowable over Whitbourne under 35 U.S.C. §103(a) for at least the same reason.

The undersigned authorizes the examiner to charge any fees that may be required or credit of any overpayment to be made to Deposit Account No. 07-1850.

**CONCLUSION**

Withdrawal of the rejection and allowance of the claims are respectfully requested. **If the Examiner has any suggestions or amendments to the claims to place the claims in condition for allowance, applicant would prefer a telephone call to the undersigned attorney for approval of an Examiner's amendment.** If the Examiner has any questions or concerns, the Examiner is invited to telephone the undersigned attorney at (415) 393-9885.

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Respectfully submitted,

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